

# **CITY COUNCIL AGENDA**

**APRIL 11, 2006**

## **SYNOPSIS**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ, VICE MAYOR  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
MADISON P. NGUYEN  
DAVID D. CORTESE  
JUDY CHIRCO  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp)

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
9:30 a.m. - Closed Session, City Hall Tower, 18<sup>th</sup> Floor, City Hall  
**Absent – Council Members: Cortese; Gonzales (Excused).**  
  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
**Absent – Council Members: Gonzales (Excused).**
- **Invocation (District 4)**  
**The Filipino Youth Coalition delivered a presentation on Bataan Death March in remembrance of Bataan Day.**
- **Pledge of Allegiance**  
**Mayor Gonzales led the Pledge of Allegiance.**
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved and Interim City Manager Les White requested Item 4.3 not be dropped from the agenda and instead, for it to be heard by Council.**  
  
**Interim City Manager Les White introduced the new Director of Emergency Services Kim Shunk to the City of San José.**

## **1. CEREMONIAL ITEMS**

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- 1.1 Presentation of a commendation to the Tower Lane team for their exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)  
**Vice Mayor Chavez and City Manager Les White presented a commendation to Assistant Director of Public Works Dave Sykes of the Tower Lane Team for their invaluable contributions and dedication to the City organization.**

## 2. CONSENT CALENDAR

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### 2.1 Approval of Minutes.

None.

### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinance.

- (a) ORD. NO. 27687 – Establishes a Rule 20A Underground Utility District along Park Avenue from Bascom Avenue to Naglee Avenue; Naglee Avenue from Park Avenue to Shasta Avenue.

**Ordinance No. 27687 adopted.**

- (b) ORD. NO. 27688 – Grants a Commercial Solid Waste and Recyclables Collection Franchise to the Residential Bin Co., Inc.

**Ordinance No. 27688 adopted.**

### 2.3 Approval to amend a reimbursement agreement for explosive detection canine teams.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute assistance modification number seven to the cooperative agreement with the Transportation Security Administration (TSA) to partially reimburse Airport funded Police Department costs for four explosive detection canine teams in an amount of \$160,500 from October 1, 2004 to September 30, 2005 and for a total of \$200,000 per year from October 1, 2005 to April 16, 2007, at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, PP 06-033. (Airport)

**Resolution No. 73127 adopted.**

### 2.4 Approval to sell property located at the southeast corner of Ninth and Keyes Streets.

**Recommendation:** Adoption of a resolution declaring certain property located at the southeast corner of Ninth and Keyes Streets, comprising approximately 2,199 square feet, surplus to the needs of the City, and authorizing the Director of General Services to negotiate and execute a sales agreement and all documents necessary to complete the transfer of the property to the adjacent property owner(s) in an amount not to exceed \$31,000. CEQA: Exempt, File No. PP06-037. Council District: 3. SNI Area: Spartan/Keyes. (General Services)

**Dropped.**

### 2.5 Approval to appoint the Homeless Coordinator to the State's Policy Academy.

**Recommendation:** Appointment of Ray Tovar, the City's Homeless Coordinator, to represent the City of San José at the State of California's Policy Academy on Individuals and Families Experiencing Chronic Homelessness. CEQA: Not a project. (Housing)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.6 Approval of an amendment to the Saratoga Creek Park Master Plan.

**Recommendation:** Approval of an amendment to the Saratoga Creek Park Master Plan to include a dog park. CEQA: Exempt, PP05-185. Council District: 1. (Parks, Recreation and Neighborhood Services)

**Approved.**

**Staff directed to keep Council District office #1 and the community informed of the proposed design, including the types of materials to be used in the construction.**

### 2.7 Approval to set a Public Hearing on the vacation of a portion of North Twentieth Street.

**Recommendation:** Adoption of a resolution of intention to conditionally vacate a portion of North Twentieth Street north of Santa Clara Street, and setting a public hearing on May 2, 2006 at 1:30 p.m. CEQA: Mitigated Negative Declaration (PP03-397). Council District: 3. SNI Area: Five Wounds/Brookwood Terrace. (Public Works)

**Resolution No. 73128 adopted.**

### 2.8 Approval of the Sales Tax Audit Results for the Quarter ended December 31, 2005 report.

**Recommendation:** Approval of *Sales Tax Audit Results for the Quarter ended December 31, 2005* report. (City Auditor)  
(Rules Committee referral from 4/5/06)

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

**Mayor Gonzales, Chair**

**None.**

### 3.2 Report of the Rules Committee – March 29, 2006

**Vice Mayor Chavez, Chair**

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review April 11, 2006 Council Agenda

(a) Adds to the April 11, 2006 Draft Agenda

**The Committee recommended approval of an addition to the April 11, 2006 City Council Agenda.**

(2) Add New Items to April 4, 2006 Agenda

**The Committee recommended approval of six additions to the April 4, 2006 City Council Agenda.**

### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.2 Report of the Rules Committee – March 29, 2006 (Cont'd.)**

**Vice Mayor Chavez, Chair**

(b) City Council

(2) Add New Items to April 4, 2006 Agenda

(a) Mayor and Council Member Requests

(2) Reconsideration of the Mayor's participation on boards or committees on which he serves as the City's representative. (Yeager)

#### **HEARD ON 4/4/06**

**The Rules Committee considered jointly the memorandums put forward by Council Member Yeager and the Mayor relative to the Mayor's appointments to boards and committees as the City's representative; and Council Member Cortese's request to place on the agenda a clarification and/or reconsideration of the appointments of the Mayor to Boards and Commissions. Mayor's Chief of Staff Rebecca Dishotsky noted for the record that there may have been a potential and unintentional violation of the Brown Act as a result of Staff contact on this item individually to a quorum of the Rules Committee. City Attorney Rick Doyle advised that a serial meeting may have occurred but that the Brown Act provides that disclosure is the cure. He recommended that the Committee confirm the disclosure, hear the item and make a decision in public.**

**Mayor's Chief of Staff Rebecca Dishotsky summarized the Mayor's Memorandum dated March 28, 2006 and responded to questions. City Attorney Rick Doyle noted that all positions held by the Mayor listed on Attachment C are ex-officio and clarified that none of them are appointed by the City Council. The Committee accepted the Mayor's recommendation to not place on the agenda for the April 4 Council meeting the removal of the Mayor from the Silicon Valley Rapid Transit Policy Advisory Board (BART-PAB), and further, the Mayor's recommendation that Council Member Nguyen be nominated to the Valley Transportation Authority (VTA) Board to be the City of San Jose representative on the BART-PAB. The Committee further recommended that the nomination of Council Member Nguyen be forwarded to the City Council on April 4, 2006, along with copies of the Mayor's Memorandum and the VTA Bylaws.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – March 29, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

(b) City Council

(2) Add New Items to April 4, 2006 Agenda

(a) Mayor and Council Member Requests

(3) Voter-Owned Campaigns

**The Committee deferred the item to the meeting of April 5, 2006 and requested that a member of the Mayor's Office be present to answer questions from the Committee members.**

(3) List of Reports Outstanding

**The Committee noted and filed the City Manager's Report.**

(c) Legislative Update

(1) State – **None.**

(2) Federal – **None.**

(d) Meeting Schedules

**None.**

(e) The Public Record

**The Committee noted and filed the Public Record.**

(f) Appointments to Boards, Commissions and Committees

**None.**

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Request to Use Community Resource Funds for the Community Resource Fair Scheduled on June 11, 2006.

**The Committee approved the request.**

(2) Request to Add *An Audit of the City's Investment and Debt Administration* to the City Auditor's 2005-06 Audit Workplan.

**The Committee approved the recommendation.**

(h) Open Forum

**Bill Chew spoke about his candidacy for District 3 and urged the Mayor to host a candidate's forum in the Council Chambers for all candidates for City office.**

(i) Adjournment

**The meeting was adjourned at 3:02 p.m.**

**The Rules Committee report and actions of March 29, 2006 were accepted.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – March 22, 2006 (Cont'd.)

##### Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review April 4, 2006 Draft City Council Agenda  
**The Committee recommended approval of the April 4, 2006 City Council Agenda with five additions.**
  - (2) Add New Items to March 28, 2006 City Council Agenda  
**The Committee recommended approval of the March 28, 2006 City Council Agenda with five additions.**
  - (3) List of Reports Outstanding  
**The Committee noted and filed the City Manager's report.**
- (c) Legislative Update
  - (1) State – **None.**
  - (2) Federal
    - (a) National League of Cities Congressional Conference Summary Report  
**The Committee accepted the oral report.**
- (d) Meeting Schedules  
**The Committee set the meeting date of the April 4, 2006 Joint session with the Santa Clara Valley Water District.**
- (e) The Public Record  
**The Committee noted and filed the Public Record.**
- (f) Appointments to Boards, Commissions and Committees
  - (1) Appointments to the Deferred Compensation Advisory Committee  
**The Committee recommended the appointments of Jeff Ricketts to the DCAC to serve the remaining three years of retiree Don DeMer's term as the employee representative recommended by the San José Police Officers Association (POA) for a term ending March 1, 2009; and the appointment of Trish Glassey to the DCAC as the employee representative recommended by the American Federation of State, County and Municipal Employees (AFSCME) of Municipal Employees' Federation (MEF) and Confidential Employees' Organization (CEO), for a four-year term ending March 1, 2010.**
  - (2) Advisory Commission on Rents Term Extensions  
**The Committee approved the recommendation.**



### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – March 22, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Request to add reviews of high profile, complex RFP's/procurements as an ongoing assignment to the City Auditor's work plan

**The Committee approved the recommendation and requested that a definition of "high profile and/or complex" be provided when staff returns with the Procurement Reforms.**

- (2) Approval of an amended timeline for the Fire Department to research and develop an ordinance for Improved Fire Safety in Older Buildings

**The Committee approved the amended timeline and directed staff to look at what other cities have done, involve the Tri-Counties Apartment Association and to return to Rules with a progress update between September and November 2006.**

- (3) Adoption of an opposition position on HR4437

**HEARD ON 4/4/06**

**Erik Larsen, President, Municipal Employees' Federation (MEF), AFSCME, Local No. 101 and Laressa, Policy Director for Services, Immigrant Rights and Education Network (SIREN), spoke in support of the City's recommendation for a resolution in opposition to the immigration reform bill. The Committee directed the City Manager, or his designee, to monitor the activities of the National League of Cities "Immigration Task Force" which has been meeting since December of 2005 to focus on key issues affecting cities and towns related to immigration reform, review pending legislation in Congress, and identify policy gaps/policy amendments to guide NLC's lobbying as immigration reform unfolds.**

- (4) Approval of travel by Council Member Campos to attend the League of California Cities Transportation, Communication and Public Works Policy Committee Meeting in Los Angeles on March 30, 2006

**The Committee approved the travel request.**

(h) Open Forum

**Bill Chew spoke about his candidacy for District 3 and observed that the public has the opportunity to gain greater access to City government by watching the Rules Committee meetings on television or via the internet.**

(i) Adjournment

**The meeting adjourned at 2:48 p.m.**

(Deferred from 4/4/06 – Item 3.2)

**The Rules Committee report and actions of March 22, 2006 were accepted.**

### **3. STRATEGIC SUPPORT SERVICES**

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- 3.3 Report of the Making Government Work Better Committee**  
**Council Member Reed, Chair**  
**None.**

### **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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- 4.1 Report of the Building Strong Neighborhoods Committee**  
**Council Member Chirco, Chair**  
**None.**
- 4.2 Report of the Driving a Strong Economy Committee – March 27, 2006**  
**Council Member Williams, Chair**
- (a) Development Process Status Report  
**The Committee accepted Staff's request to defer this item until the next Committee meeting on April 24, 2006.**
  - (b) Counter-to-Council Update  
**The Committee accepted the staff's report.**
  - (c) Update on President's Advisory Panel on Federal Tax Reform Recommendations  
**The Committee accepted the staff's report.**
  - (d) Oral Petitions  
**Bill Chew, Candidate for District 3, spoke on public campaign funds.**
  - (e) Adjournment  
**The meeting was adjourned at 2:17 p.m.**

**The Driving a Strong Economy Committee report and actions of March 27, 2006 were accepted.**

**Noes: LeZotte**

- 4.3 Approval to designate the City as the local redevelopment authority for the reuse of the Richey U.S. Army Reserve Center.**

**Recommendation:** Approval to designate the City of San Jose as the local redevelopment authority for the purpose of reuse of the Richey U.S. Army Reserve Center at 155 W. Hedding. CEQA: Not a Project. (Public Works/Planning, Building and Code Enforcement)

**City Manager White recommended that the US Department of Defense be the local redevelopment authority and suggested that staff should work with the County to identify possible uses of mutual benefit to both the City and the County. Council approved the recommended course of action.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.4 Approval of actions related to the County Island Annexation Process.**

**Recommendation:** Provide direction to staff to proceed with the county island annexation process, beginning with a Pilot Program of sixteen such islands, and specifically:

- (a) Direction to staff to prepare initiation of island annexations under the provision of Government Code Section 56375.3 for those parcels identified islands; and
- (b) Request that the County provide the necessary mapping, legal descriptions, Surveyor's and Assessor's Reports for the islands recommended in the staff report; and,
- (c) Direction to staff to initiate the necessary pre-zonings and complete appropriate environmental review.

CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)  
(Deferred from 3/21/06 – Item 4.4, et al and 4/4/06 – Item 4.4)

**Deferred to 4/18/06.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair None.**

### **5.2 Public Hearing on the Consolidation Plan – Annual Action Plan for FY 2006-2007.**

**Recommendation:** Open Public Hearing on the draft Annual Action Plan for Fiscal Year 2006-2007, and announce that on April 5, 2006, the draft Action Plan will be made available to the public, officially beginning the thirty-day public comment period, which will end on May 5, 2006. CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)

**The Public Hearing was held.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair None.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.2 Approval of actions related to the Airport North Concourse.**

**Recommendation:**

- (a) Report on bids and award of contract for the Norman Y. Mineta San José International Airport North Concourse Building Foundation and Utility Tunnel Concrete (Package 2A) Project to the lowest responsive bidder, Gonsalves & Santucci, Inc. dba Conco, in the amount of \$15,512,812, and approval of a contingency in the amount of \$1,552,000. CEQA: Resolution Nos. 67380 and 71451, PP 06-025. (Public Works/Airport)

**Approved.**

- (b) Approval to reject the sole bid for the Norman Y. Mineta San José International Airport North Concourse Building Curtain Wall and Glazed Roofing (Package 4A) Project. CEQA: Resolution Nos. 67380 and 71451, PP 06-028. (Public Works/Airport)

**The bid was rejected.**

### **6.3 Approval to continue and amend an agreement with Skywest Airlines.**

**Recommendation:** Approval of a continuation agreement and first amendment to the Scheduled Airline Operating Agreement and License between the City of San José and Skywest Airlines, Inc., to extend the agreement from May 31, 2003 through November 30, 2007, and to amend the agreement to include provisions regarding compliance with the City's Airport Curfew Ordinance, with continuing annual revenue to the City of approximately \$360,000. CEQA: Resolution No. 67380, PP 03-02-065. (Airport)

**Deferred to 4/18/06.**

### **6.4 Approval of an extension agreement with AMPCO System Parking.**

**Recommendation:** Adoption of a resolution authorizing the City Manager to execute a second amendment to the agreement with AMPCO System Parking for parking management and operation services, increasing compensation in an amount not to exceed \$1,600,000 and extending the term of the agreement from July 1, 2006 to December 31, 2006, subject to the appropriation of funds in FY 2006-2007 budget. CEQA: Not a Project. (Transportation)

**Resolution No. 73129 adopted.**

**Staff requested to provide more information about the validation program and fees relating to evening and weekend use.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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## **8. PUBLIC SAFETY SERVICES**

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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- Closed Session Report

None.

- Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>
9755	S/E Terminus of Duckett Way	1	Richard Shwe	5 Units	SFA/SFD

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9796	88 E. San Fernando Street	3	CIM Group, Inc.	1 Lot	Condo
9801	360 S. Market Street	3	MESA SOFA Partners, LLC.	1 Lot	Condo

**Approved.**

- Notice of City Engineer's Award of Construction Projects

None.

- Open Forum—

- (1) **Dee Sutton, Silicon Valley United Way, announced a new free telephone service which links the community vital emergency/crisis resources. She noted more information will be forthcoming regarding "211", a 24-hour multi-lingual telephone service.**
- (2) **George Fokos urged the Council to repair and prepare community swimming pools for this summer.**
- (3) **Bill Chew discussed his candidacy for Council District 3 and encouraged voters to register and to vote.**
- (4) **Robert Apgar shared commentary regarding Major League Baseball homerun records by San Francisco Giants baseball player Barry Bonds.**
- (5) **Ross Signorino concerned with previous speakers about the need for affordable housing units and commented about recent City-County settlement agreement.**
- (6) **Mark Trout shared religious viewpoints.**

- **Adjournment**  
**The Council of the City of San José was adjourned at 2:34 p.m.**